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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,739	05/18/2006	Motohiro Itadani	4918-0108PUS1	3560

2292 7590 05/22/2009  
BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747

EXAMINER
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MOONEY, MICHAEL P

ART UNIT	PAPER NUMBER
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2883

NOTIFICATION DATE	DELIVERY MODE
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05/22/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/579,739	<b>Applicant(s)</b> ITADANI ET AL.	
	<b>Examiner</b> MICHAEL P. MOONEY	<b>Art Unit</b> 2883	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 11-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 1,2 and 11-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

The cancellation of claims 3-10 is acknowledged.

#### ***Election/Restrictions***

Applicants' election with traverse of Species A2 configuration (2) in the reply filed on 1/12/09 is acknowledged. The traversal is on the ground(s) that the special technical feature is contained in the 1<sup>st</sup> twelve lines of claim 1. This is not found persuasive at least because, as already mentioned in the 12/12/08 Office action, the prior art establishes that the 1<sup>st</sup> 12 lines of claim 1 do not indicate a special technical feature (STF).

The prior art establishes that the 1st 12 lines of claim 1 are not allowable over the prior art. Therefore, the 1st 12 lines of claim 1 does not make a contribution over the prior art.

In order to be a STF, the 1st 12 lines of claim 1 would have to make a contribution over the prior art. Since the 1<sup>st</sup> 12 lines of claim 1 do not make a contribution over the prior art, the 1<sup>st</sup> 12 lines of claim 1 cannot be a special technical feature.

Additionally, it is noted that, contrary to Applicants' indication in the 1/12/09 Remarks, prosecution has already begun.

Furthermore, Applicants' arguments regarding future amendments are superfluous at least since they do nothing to render the current restriction requirement as inappropriate.

Applicants' arguments traversing the restriction have been refuted.

The requirement is still deemed proper and is therefore made FINAL.

#### ***Quayle Action***

This application is in condition for allowance except for the following formal matters:

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A non-elected configuration (1) is contained in claim 1 and a non-elected configuration (1) is contained in claim 2. Please appropriately amend claims 1 and 2 such that non-elected configuration (1) is eliminated from each said claim.

Also, please cancel non-elected claims 15-20.

It is acknowledged that the configuration (2) of claim 1 and the configuration (2) of claim 2 are different from each other. Claims 1 and 2 nonetheless have been addressed on the merits and contain allowable subject matter contingent upon proper amendment in accord with the above.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL P. MOONEY whose telephone number is 571-272-2422. The examiner can normally be reached during weekdays, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Michael P. Mooney/  
Patent Examiner, Art Unit 2883

/Frank G. Font/  
Supervisory Patent Examiner, Art Unit 2883

FGF/mpm  
5/6/09